

CLIENT NEWS BRIEF

Court of Appeal Holds that Diverted Revenue Should be Included in the Calculation of District's Property Tax Allocation Base

In the most recent published case arising out of the aftermath of the dissolution of redevelopment agencies statewide, a court of appeal has ruled in *Los Angeles Unified School District v. County of Los Angeles* (2013) 217 Cal.App.4th 597, that the Los Angeles Unified School District's (District) property tax allocation base should include property tax revenue that was diverted by other legislation. The decision resulted in an increase in revenue to the District in the form of increased pass-through payments.

Specifically, the court determined that the District's pass-through payments should have included Educational Revenue Augmentation Fund (ERAF) revenue that was diverted as a result of the Triple Flip and Vehicle Licensing Fee Swap (VLF) legislation. The Triple Flip is a temporary revenue measure that shifts revenue in three steps to guarantee repayment of Proposition 57 bonds, while the VLF Swap refers to diverted property tax revenue given to cities and counties to compensate each for their loss in revenue resulting from decreased vehicle license fees.

The calculation of a district's property tax allocation base is important because it affects the percentage share of pass-through payments that a district receives from former redevelopment agencies. Prior to the dissolution of redevelopment agencies, upon completion of a redevelopment project, any resulting increase in property tax revenue is allocated among the affected local taxing entities, including schools. These "pass-through payments" benefit schools as they contain fixed percentages of property tax and non-property-tax revenue, and only the latter may be spent on educational facilities.

In 2007, the District filed suit to compel the County and City of Los Angeles and others to increase its allocation of community redevelopment project mitigation payments under Health and Safety Code section 33607.5. The District specifically challenged the omission of ERAF revenue from its property tax allocation base. During the appeal of that matter, the court of appeal concluded that ERAF revenue should be included in the District's property tax allocation base. In subsequent proceedings, however, the superior court rejected the District's contention that its property tax allocation base should also include its share of property tax revenue diverted from ERAF revenue by Triple Flip and VLF Swap. In this most recent decision, the appellate court concluded that revenue diverted by Triple Flip and VLF Swap should be counted for purposes of determining ERAF revenue.

The court of appeal in this most recent case relied upon the California Supreme Court's analysis in *City of Alhambra v. County of Los Angeles* (2012) 55 Cal. 4th 707. In *City of Alhambra*, the court held that the diversion of ERAF revenue pursuant to the Triple Flip and VLF Swap does not trigger a reallocation of property tax revenue under the A.B. 8 property tax allocation system. Relying on *City of Alhambra*, the court of appeal in the most recent case ruled in favor of the District, holding that the District's share of the ERAF revenue that was diverted by Triple Flip and VLF Swap must be included in the calculation of its property tax allocation base. This will result in a corresponding increase in its

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share of pass-through payments under Health and Safety Code section 33607.5.

If you have any questions regarding this decision or the calculation of property tax revenue in general, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).